IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

WP(C).No. 28037 of 2007(K)

AGAINST THE ORDER IN EP 90 2004 IN OS.84/1993 of SUB COURT,THODUPUZHA

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PETITIONER:

JOSEPH, S/O. XAVIER, AGED 51 YEARS,
RESIDING AT VELLATHANAM HOUSE, MANKULAM KARA VILLAGE, DEVIKULAM TALUK, IDUKKI DISTRICT.

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENT:

M.N.SIVAN, S/O. NARAYANAN,
MALIL HOUSE, MANKULAM VILLAGE AND KARA,
DEVIKULAM TALUK, IDUKKI DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.28037 of 2007

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Dated this the 24th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking to set aside Ext.P4 on the ground that it is a laconic order. A perusal of the order would reveal that the judgment debtor was not even represented before the court on the date of hearing and the court held that a petition under Order 21 Rule 37 of C.P.C. is not sustainable. But at the same time, the court has posted the matter for proving the means of the judgment debtor.

2. I make it very clear that since a civil liberty of a person cannot be simply taken away without giving an opportunity when the decree holder tenders evidence for proving means of the judgment debtor, I direct the court below to permit the judgment debtor to participate in the proceeding and adduce evidence in support of the contentions raised in his objection.

With this observation, this Writ Petition is disposed of.

M.N.Krishnan,
Judge.

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